UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK B WILSON
FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

COPY MAILED

JAN 30 2007

OFFICE OF PETITIONS

In re Patent No. 7,097,988 B1	:	DECISION ON
Lei Yu	:	PATENT TERM ADJUSTMENT
Issue Date: August 29, 2006	:	AND NOTICE OF INTENT
Application No. 09/626,616	:	TO ISSUE
Filed: July 27, 2000	:	CERTIFICATE OF
Attorney Docket No.	:	CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed October 27, 2006. Patentee requests that the patent term adjustment indicated on the patent be corrected from six hundred seventy-seven (677) days to seven hundred ninety-seven (797) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **seven hundred ninety-seven (797)** days.

On August 29, 2006, the above-identified application matured into U.S. Patent No. 7,097,988. The instant request for reconsideration filed October 27, 2006 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of six hundred seventy-seven (677) days.

Patentee states that the patent is not subject to a terminal disclaimer.

Patentee asserts that he should not have been assessed applicant delay of one hundred twenty (120) days for the submission of a "RESPONSE TO EXAMINER'S AMENDMENT" on October 6, 2005, after the Notice of Allowance was mailed on July 1, 2005.

A "RESPONSE TO EXAMINER'S AMENDMENT" is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts under 37 C.F.R. §1.704(c)(10).[1] Nevertheless, under the circumstances of this case, it is concluded that the filing of applicants' "RESPONSE TO EXAMINER'S AMENDMENT" is analogous to a response to examiner's reasons for allowance, and thus is not a failure to engage under 37 C.F.R. §1.704(c)(10). Accordingly, the assessment of one hundred twenty (120) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is seven hundred ninety-seven (797) days (1129 days of PTO delay and 332 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 50-1212, as authorized.[2]

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **seven hundred ninety-seven (797)** days subject to any disclaimers.

[1] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

[2] See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000) (stating that the fee set forth in 37 C.F.R. 1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable even in the event of Office error).

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

~~Karin Ferriter~~ Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,097,988 B1

DATED : August 29, 2006

INVENTOR(S) : Lei Yu

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (677) days

Delete the phrase "by 677 days" and insert – by 797 days—

Day : Monday
Date: 1/29/2007

PALM INTRANET

Time: 18:01:38

PTA Calculations for Application: 09/626616			
Application Filing Date:	07/27/2000	PTO Delay (PTO):	1129
Issue Date of Patent:	08/29/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	452
Post-Issue Petitions:	0	Total PTA (days):	797
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	01/29/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
64.5	08/09/2006	PTA 36 MONTHS	257		
64	08/29/2006	PATENT ISSUE DATE USED IN PTA CALCULATION	204		56
63	02/07/2006	RECEIPT INTO PUBS			
62	11/29/2005	EXPORT TO FINAL DATA CAPTURE			
61	11/28/2005	DISPATCH TO FDC			
60	11/22/2005	FINISHED INITIAL DATA CAPTURE			
59	11/07/2005	SEQUENCE FORWARDED TO PUBS ON TAPE			
58	10/06/2005	MISCELLANEOUS INCOMING LETTER		120	
57	10/14/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
56	10/06/2005	ISSUE FEE PAYMENT VERIFIED		5	52
55	10/06/2005	ISSUE FEE PAYMENT RECEIVED			
54	07/11/2005	EXPORT TO INITIAL DATA CAPTURE			
53	07/12/2005	RECEIPT INTO PUBS			
52	07/01/2005	MAIL NOTICE OF ALLOWANCE			
51	06/29/2005	ISSUE REVISION COMPLETED			
50	06/29/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	06/29/2005	CASE DOCKETED TO EXAMINER IN GAU			
48	06/29/2005	NOTICE OF ALLOWABILITY			
47	04/01/2005	MAIL BPAI DECISION ON APPEAL - REVERSED	668		31
46	03/31/2005	BPAI DECISION - EXAMINER REVERSED			
45	02/23/2005	DOCKETING NOTICE MAILED TO APPELLANT			
44	02/22/2005	ASSIGNMENT OF APPEAL NUMBER			
43	02/08/2005	APPEAL AWAITING BPAI DOCKETING			

42	12/22/2004	APPEAL AWAITING BPAI DOCKETING			
41	11/23/2004	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
40	11/23/2004	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
39	01/27/2004	REFERENCE CAPTURE ON IDS			
38	01/27/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	01/14/2004	MAIL EXAMINER'S ANSWER			
36	01/12/2004	EXAMINER'S ANSWER TO APPEAL BRIEF			
35	11/19/2003	DATE FORWARDED TO EXAMINER			
34	11/07/2003	APPEAL BRIEF FILED			
33	11/07/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	11/07/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	06/04/2003	NOTICE OF APPEAL FILED		65	29
30	06/04/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	12/31/2002	MAIL FINAL REJECTION (PTOL - 326)			
28	12/30/2002	FINAL REJECTION			
27	10/15/2002	DATE FORWARDED TO EXAMINER			
26	09/30/2002	RESPONSE AFTER NON-FINAL ACTION		31	24
25	09/30/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	05/30/2002	MAIL NON-FINAL REJECTION			
23	05/30/2002	NON-FINAL REJECTION			
22	04/15/2002	DATE FORWARDED TO EXAMINER			
21	04/11/2002	SUPPLEMENTAL RESPONSE		44	19
20	03/11/2002	DATE FORWARDED TO EXAMINER			
19	02/26/2002	RESPONSE AFTER NON-FINAL ACTION		132	17
18	02/26/2002	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
17	07/17/2001	MAIL NON-FINAL REJECTION			
16	07/16/2001	NON-FINAL REJECTION			
15	04/30/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		19	11
14	05/09/2001	DATE FORWARDED TO EXAMINER			
13	04/30/2001	SUPPLEMENTAL RESPONSE			
12	04/24/2001	DATE FORWARDED TO EXAMINER			

11	04/11/2001	RESPONSE AFTER NON-FINAL ACTION		36	9
10	04/11/2001	REQUEST FOR EXTENSION OF TIME - GRANTED			
9	12/06/2000	MAIL NON-FINAL REJECTION			
8	12/04/2000	NON-FINAL REJECTION			
7	12/04/2000	CASE DOCKETED TO EXAMINER IN GAU			
6	11/30/2000	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	07/27/2000	PRELIMINARY AMENDMENT			
4	09/12/2000	APPLICATION DISPATCHED FROM OIPE			
3	09/12/2000	CORRESPONDENCE ADDRESS CHANGE			
2	08/16/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	07/27/2000	INITIAL EXAM TEAM NN			

Search Another: Application# [] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page